

APPEAL NO. 020173
FILED APRIL 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 6, 2002. The hearing officer resolved the disputed issue before him by determining that the appellant's (claimant) _____, compensable injury extends to the right knee but does not extend to and include his left ankle or low back. The claimant appealed the hearing officer's determination that the compensable injury does not extend to or include the left ankle or low back on sufficiency grounds. The respondent (carrier) responded, urging affirmance. The hearing officer's determination that the claimant's compensable injury extends to his right knee is unappealed and has become final. Section 410.169.

DECISION

Reversed and rendered.

It is undisputed that the claimant sustained a compensable injury on _____, when he was struck by a vehicle while performing his duties for the employer. The carrier initially accepted as compensable the claimant's head, neck, and bilateral wrist injuries. The parties presented conflicting evidence as to the severity of the impact and whether the compensable injury includes the right knee, left ankle, and low back. At issue on appeal is whether the hearing officer erred in determining that the compensable injury does not extend to the left ankle and low back.

The hearing officer states in his decision that the "[c]laimant could have sustained injury to the disputed body parts in this accident, although it is harder to see how he could have sprained his ankle." He then appears to have based his determination that the claimant's compensable injury does not extend to the left ankle and low back solely on the fact that there was no mention of those body parts in the initial emergency room records. Neither delayed manifestation nor the failure to immediately mention an injury to a health care provider necessarily rules out establishing a causal connection between that injury and the work-related injury. Texas Employers Ins. Co. v. Stephenson, 496 S.W.2d 184 (Tex. Civ. App.-Amarillo 1973, no writ). Generally, lay testimony establishing a sequence of events which provides a strong, logically traceable connection between the event and the condition is sufficient proof of causation. Morgan v. Compugraphic Corp., 675 S.W.2d 729, 733 (Tex. 1984). The site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury, and the full consequences of the original injury, together with the effects of its treatment, upon the health and body of the worker are to be considered. Western Cas. and Sur. Co. v. Gonzales, 518 S.W.2d 524 (Tex. 1975).

The Appeals Panel will set aside a decision of the hearing officer only if it is so against the great weight and preponderance of the evidence as to be manifestly wrong and

unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). This is such a case. In an undisputed incident at work, the claimant was struck by a motor vehicle and knocked backwards. A certain amount of common experience corroborates the likelihood of the types of injuries claimed here and the mechanics of this injury. The claimant testified that he communicated with the emergency room personnel through a translator and that they were mostly concerned with his head injury. A photograph of the claimant's right knee taken on July 20, 2001, two days after the accident, also shows a contusion to the left ankle. Objective testing performed on _____, just five days after the accident, reveals evidence of an injury to both the low back and left ankle. The hearing officer acknowledged that the incident may have caused an injury to the claimant's low back and left ankle. However, he then rejected the claimant's claim that these body parts were part of his compensable injury because his complaints of pain in the left ankle and low back were not documented in the initial emergency room records. In the instant case, where the claimant had just been struck by a motor vehicle; the claimant speaks little English; and the claimant had sustained a head injury, the fact that injuries to the low back and left ankle were not documented in the initial emergency room report is of little consequence. We find no factual foundation for rejecting an unbroken sequence of events from the undisputed work-related incident to an injury to the claimant's low back and left ankle. Thus, we conclude that the hearing officer's determination that the compensable injury does not extend to and include the low back or the left ankle is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, we reverse the determination that the compensable injury does not extend to and include the low back or the left ankle and render a new decision that the compensable injury extends to and includes those body parts.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Michael B. McShane
Appeals Judge